IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.4185 OF 2006

Ashok Ramkumar Tiwari .. ..Applicant

Versus

The State of Maharashtra .. ..Respondent

Mr. J.B.Kocheta for applicant

Mr. S.S.Pednekar, APP for State

CORAM : S.C.DHARMADHIKARI, J.

DATE : 5TH DECEMBER, 2006

P.C.:

1. The applicant has been arrested in connection with C.R.No.19 of 2006 registered at Pimpri Police Station,Pune alleging offences punishable under Sections 302, 324 r/w 34 of I.P.C. He has been detained since 18th January 2006.

2. It appears from a perusal of the application and the annexures thereto that the applicant had earlier

applied for bail but the application was rejected on the ground that the investigations were in progress.

3. Later on one co-accused Dattatraya Bhagwan Jadhav who was arrested in connection with same C.R. was enlarged on bail by this Court on 10th August, 2006. This Court had categorically held that the allegations as far as Dattatraya is concerned pertain to his holding the deceased and not assaulting him with any weapon. It is the co-accused who was armed with weapon and not Dattatraya, is a prima facie finding of this court.

4. After the order was passed by this Court the present applicant once again applied for bail but the trial court rejected the same on the ground that the applicant's case cannot be said to be on par with Dattatraya.

5. After having observed that even the applicant-Ashok Ramkumar Tiwari held the deceased Santosh Dinkar Shinde while other accused Devkar stabbed in his chest, head and back, I do not see how the learned Ad-hoc Additional District Judge, Pune could have rejected the applicant's application for bail.

6. The learned APP does not dispute that on grounds of party with co-accused Dattatraya, the applicant deserves to be enlarged on bail. Hence, the following order:

ORDER :

(i) The applicant arrested in connection with C.R.No.19 of 2006 registered with Pimpri Police Station, Pune shall be enlarged on bail in the sum of Rs.20,000/= with one or two local sureties in the like sum;

(ii) The applicant shall stay out of the jurisdiction of Pimpri Police Station till the disposal of trial.

(iii) The applicant shall report to nearest police station where he is residing after release on bail.

(iv) The applicant shall furnish his address to the Investigating Officer where he proposes to

reside after bail and during pendency of the trial. The applicant shall not change his residence without prior intimation to the Investigation Agency;

(v) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence;

(vi) The applicant shall cooperate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail;

(vii) Any observation/s made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(viii) Application is disposed of in above terms.

(S.C.Dharmadhikari, J.)